

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

PATRICK INSCHO, *et al.*,

Plaintiffs,

v.

Civil Action No. 1:17-cv-00674-LMB-JFA

DAVID JOHNSON, *et al.*,

Defendants.

**DEFENDANTS' MEMORANDUM IN SUPPORT OF CONSENT MOTION TO EXTEND
DEADLINE TO FILE REPLY MEMORANDA AND STAY HEARING DATE**

Defendants, David Johnson, Kirk Chewning and Cane Bay Partners, VI, LLLP (“Cane Bay”) (collectively, the “Defendants”), by counsel, and with the consent of Plaintiffs, hereby submit this memorandum in support of their consent motion to extend the deadline to file their reply briefs as to their pending: (1) Motion to Dismiss for Lack of Jurisdiction (Dkt. No. 26); (2) Motion to Dismiss for Failure to State a Claim (Dkt. No. 28); and (3) Motion to Dismiss for Failure to Join an Indispensable Party, Motion to Dismiss Under the Tribal-Exhaustion Rule, and Motion to Compel Arbitration (Dkt. No. 30). Defendants also request that the Court stay the hearing date for those motions, which is currently scheduled for October 20, 2017.

On October 10, 2017, Defendants filed a consent motion to stay proceedings in this matter for a period of two months due to the devastating effects of hurricanes Maria and Irma and associated natural disasters on Cane Bay, its principals, and its employees. (Dkt. No. 37.) In that motion, Defendants requested a stay of the deadline to file their reply briefs in support of the pending motions to dismiss, as well as the hearing scheduled for those motions on October 20, 2017. At this time, the Court has not yet ruled on that motion for a temporary stay. Therefore,

out of an abundance of caution, Defendants also file this motion explicitly seeking to stay the deadlines for filing their reply briefs and the related hearing date.

Counsel for Defendants are certainly aware of the speed of this Court and the nature of this request. However, these acts of God are likewise unusual and justify a slight departure from the Court's Scheduling Order in this case. This is the first requested stay of any pretrial deadline in this case. The request is made by consent and not for any dilatory purpose. This stay will ensure that the case is litigated fully and on the merits, as well as afford the parties time to determine if the matter can be cooperatively resolved, including through a potential mediation. The requested stay will not prejudice any of the parties or any trial date, which has not yet been set.

WHEREFORE, Defendants, with the consent of Plaintiffs, hereby respectfully request that the Court: (1) grant this Motion; (2) suspend all current deadlines in the case, including the current briefing deadlines and hearing date on the pending motions to dismiss; and (3) require that the parties submit a joint status report at the expiration of the two-month stay proposing new deadlines; and (4) grant them any such other and further relief as may be appropriate.

**DAVID JOHNSON, KIRK CHEWNING and
CANE BAY PARTNERS, VI, LLP**

By: /s/David N. Anthony

David N. Anthony
Virginia State Bar No. 31696
Counsel for Defendants
TROUTMAN SANDERS LLP
1001 Haxall Point
Richmond, Virginia 23219
Telephone: (804) 697-5410
Facsimile: (804) 698-5118
Email: david.anthony@troutmansanders.com

CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of October, 2017, I electronically filed the foregoing pleading with the Clerk of the Court using the CM/ECF System which will then send a notification of such filing (NEF) to the following:

Kristi C. Kelly
Andrew J. Guzzo
Kelly & Crandall, PLC
3925 Chain Bridge Road, Suite 202
Fairfax, VA 22030
Telephone: (703) 424-7570
Facsimile: (703) 591-0167
Email: kkelly@kellyandcrandall.com
Email: aguzzo@kellyandcrandall.com

Counsel for Plaintiffs

/s/ David N. Anthony
David N. Anthony
Virginia State Bar No. 31696
Counsel for Defendants
TROUTMAN SANDERS LLP
1001 Haxall Point
Richmond, Virginia 23219
Telephone: (804) 697-5410
Facsimile: (804) 698-5118
Email: david.anthony@troutmansanders.com